

ASSEMBLY BILL

No. 1369

Introduced by Assembly Members Oller and Granlund
(Principal coauthor: Senator Knight)
(Coauthors: Assembly Members Baldwin, Baugh, Bowler,
Morrow, Olberg, and Runner)
(Coauthor: Senator Mountjoy)

February 28, 1997

An act to amend Sections 12050, 12051, and 12054 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1369, as introduced, Oller. Concealed firearm licenses.

(1) Existing law authorizes a county sheriff or the chief or other head of a municipal police department to issue a license to carry a pistol, revolver, or other concealable firearm upon proof that the applicant is of good moral character, that good cause exists for the issuance, and that the applicant is a resident of the county. Existing law prohibits the issuance of a license if the Department of Justice determines that the person applying for the license is within a prohibited class.

This bill would require the issuance of a license, within 15 days of receipt of the Department of Justice's report of all data and information pertaining to the applicant, upon proof that the applicant is a resident of the county, is 21 years of age or older and a citizen or legal resident of the United States, desires legal means to carry a concealed firearm for lawful self-defense, and demonstrates competence with a firearm, as specified.

By imposing increased duties on sheriffs and local police chiefs, the bill would create a state-mandated local program.

The bill also would make immune from liability any licensing authority who complies in good faith with this provision.

(2) Existing law provides that a license to carry a concealed firearm may include any reasonable restrictions or conditions that the issuing authority deems warranted. In addition, the issuing authority is required to revoke the license if the issuing authority is notified by the Department of Justice that a licensee is within a prohibited class.

This bill would delete the former provision and instead would authorize the licensing authority to deny an applicant a license to carry a concealed firearm if the licensing authority has prepared a sworn written statement alleging that the applicant is likely to use a weapon unlawfully or negligently. The bill also would require that a copy of the statement be made available to the applicant at the time he or she is denied a license.

The bill also would require the licensing authority to deny an applicant a license to carry a concealed firearm if the licensing authority determines that the applicant is a member of a criminal street gang, and to revoke a license if the licensing authority determines that the licensee is a member of a criminal street gang.

The bill also would require the licensing authority to deny an applicant a license to carry a concealed weapon if the applicant has participated, within 10 years prior to the time of the application, in a domestic violence diversion program as a result of a complaint charging the applicant with a domestic violence offense. The bill would require the licensing authority to revoke the license if it determines that a licensee has so participated.

(3) Existing law requires that an application for a license to carry a concealed weapon include specified information about the applicant. A person who files this application knowing that the statements contained therein are false is guilty of a misdemeanor.

This bill would require that, if the applicant has participated in a domestic violence diversion program as a result of a

complaint charging the applicant with a domestic violence offense, the application also shall state that fact and the dates of the participation in the program. By expanding the scope of a crime, the bill would impose a state-mandated local program.

(4) Existing law authorizes the licensing authority to charge a fee up to \$3 for the processing of an application for a license to carry a concealed firearm or an amended license.

This bill would authorize the licensing authority to charge a fee up to \$12.50 for processing an application or amended license. The bill also would make it a misdemeanor for any person to charge a fee in excess of \$12.50 for a license. Because the bill would create a new crime, it would impose a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be
2 cited, as the Oller-Knight-Granlund Citizen Self-Defense
3 Act.

4 SEC. 2. The Legislature finds and declares all of the
5 following:

(a) It is the intent of the Legislature that every law-abiding man and woman has the right to protect themselves, their family, and their property. This act addresses the issue of whether there is a national trend of crime rate reductions in states with “right to carry” firearms laws as opposed to the states without these laws.

The Federal Bureau of Investigation (FBI) report “Crime in the United States, 1993” showed that crime rates are 22 percent lower in states with “right to carry” laws than in states with restrictive laws, the crime rate for firearm violence is 29 percent lower, homicide is 31 percent lower for firearm violence, the rate for firearm homicides is 41 percent lower, the rate for handgun homicides is 41 percent lower, the robbery rate is 36 percent lower, the rate for robbery with use of a firearm is 38 percent lower, the rate for aggravated assault is 14 percent lower, and the rate for aggravated assault with use of a firearm is 19 percent lower.

Six years after enacting a “right to carry” law in 1987, the State of Florida posted a 22 percent drop in homicides compared with a 15 percent increase in the rest of the country during this same period, according to FBI reports.

(b) It is also the intent of the Legislature that every county sheriff, police chief, or other head of a municipal police department in implementing this act shall consider only citizens and legal residents of the United States to be eligible for a license to carry a concealed firearm.

(c) It is further the intent of the Legislature that at no time and under no circumstances shall a license to carry a concealed weapon be issued to any person who has been convicted of a felony or has a history of mental illness as specified in subdivision (b) of Section 12050 of the Penal Code, or any person who has illegally entered the United States.

SEC. 3. Section 12050 of the Penal Code is amended to read:

12050. (a) (1) ~~The~~ *Except as provided in subdivision (c), the* sheriff of a county or the chief or other head of a municipal police department of any city or city and

1 county, upon proof that the person applying ~~is of good~~
2 ~~moral character, that good cause exists for the issuance,~~
3 ~~and that the person applying is a resident of the county,~~
4 ~~may meets the criteria specified in paragraph (3), and~~
5 ~~within 15 days of receipt of the report required pursuant~~
6 ~~to subdivision (a) of Section 12052, shall issue to that~~
7 person a license to carry a pistol, revolver, or other
8 firearm capable of being concealed upon the person in
9 either one of the following formats, *which shall be*
10 *specified by the applicant at the time of making*
11 *application:*

12 (A) A license to carry concealed a pistol, revolver, or
13 other firearm capable of being concealed upon the
14 person.

15 (B) Where the population of the county is less than
16 200,000 persons according to the most recent federal
17 decennial census, a license to carry loaded and exposed
18 in that county a pistol, revolver, or other firearm capable
19 of being concealed upon the person.

20 (2) A license issued pursuant to this section is valid for
21 any period of time not to exceed one year from the date
22 of the license, or in the case of a peace officer appointed
23 pursuant to Section 830.6, three years from the date of the
24 license.

25 (3) *The person applying for a permit shall be a*
26 *resident in the county in which application is made and*
27 *shall comply with the following requirements:*

28 (A) *Is 21 years of age or older and a citizen or legal*
29 *resident of the United States.*

30 (B) *Desires a legal means to carry a concealed weapon*
31 *or firearm for lawful self-defense.*

32 (C) *Demonstrates competence with a firearm by*
33 *presenting evidence of any one of the following:*

34 (i) *Completion of any firearms safety or training*
35 *course available to the general public through a law*
36 *enforcement agency, community college, college,*
37 *private or public institution or organization, or firearms*
38 *training school, utilizing instructors certified by a state or*
39 *national organization having firearms safety and*
40 *proficiency as its professional standard.*

1 (ii) Completion of any firearms safety or training
2 course available to security guards, investigators, special
3 deputies, or any division or subdivision of law
4 enforcement or security enforcement through a law
5 enforcement agency.

6 (iii) Equivalent experience with a firearm through
7 participation in organized shooting competition or
8 military service.

9 (iv) Current or prior licensure to carry a firearm in
10 this state, or a county or municipality of this state, unless
11 that license has been revoked for cause.

12 (v) Completion of any firearms safety or training
13 course conducted by a state certified firearms instructor
14 or by a firearms instructor certified by a state or national
15 organization having firearms safety and proficiency as its
16 professional standard.

17 A photocopy of a certificate of completion of any of the
18 courses or an affidavit from the instructor, school, club,
19 organization, or group that conducted the course
20 attesting that the applicant completed the course or a
21 copy of any document that shows completion of the
22 course or class or evidences participation in firearms
23 competition shall constitute evidence of qualification
24 under this paragraph.

25 ~~(b) A license may include any reasonable restrictions~~
26 ~~or conditions which the issuing authority deems~~
27 ~~warranted, including restrictions as to the time, place,~~
28 ~~manner, and circumstances under which the person may~~
29 ~~carry a pistol, revolver, or other firearm capable of being~~
30 ~~concealed upon the person.~~

31 ~~(c) Any restrictions imposed pursuant to subdivision~~
32 ~~(b) shall be indicated on any license issued.~~

33 ~~(d)~~ A license shall not be issued if the Department of
34 Justice determines that the person is within a prohibited
35 class described in Section 12021 or 12021.1 of this code or
36 Section 8100 or 8103 of the Welfare and Institutions Code,
37 or is a member of a criminal street gang, as defined by
38 subdivision (f) of Section 186.22, or is unable to prove that
39 he or she is a citizen of the United States. Proof of

1 citizenship or legal residence shall include any two of the
2 following:

3 (1) A valid California driver's license or identification
4 card.

5 (2) A social security card.

6 (3) A birth certificate.

7 (4) A United States passport.

8 (5) An Immigration and Naturalization Service
9 certification of citizenship.

10 (6) A State Department birth abroad certification.

11 (7) Any Immigration and Naturalization Service or
12 State Department documents verifying legal residency.

13 ~~(e)~~

14 (c) (1) A license shall not be issued to an applicant
15 about whom the issuing law enforcement authority has
16 prepared a sworn written statement alleging that the
17 applicant is likely to use a weapon unlawfully or
18 negligently so as to endanger others. The statement shall
19 be based upon the personal knowledge of a law
20 enforcement officer, supported by written
21 documentation, if available, or upon a sworn written
22 statement of a competent person having knowledge.

23 (2) The sworn written statement that is prepared by
24 the issuing law enforcement authority shall be made
25 available to the applicant at the time he or she is denied
26 a license.

27 (d) A license shall not be issued to an applicant who,
28 within 10 years prior to the time the applicant applies for
29 the license, has participated in a domestic violence
30 diversion program as a result of a complaint charging the
31 applicant with a domestic violence offense.

32 (e) (1) The license shall be revoked by the local
33 licensing authority if at any time either the local licensing
34 authority is notified by the Department of Justice that a
35 licensee is within a prohibited class described in Section
36 12021 or 12021.1 of this code or Section 8100 or 8103 of the
37 Welfare and Institutions Code, or the local licensing
38 authority determines that the person is within a
39 prohibited class described in Section 12021 or 12021.1 of
40 the code or Section 8100 or 8103 of the Welfare and

1 Institutions Code or is not a citizen or legal resident of the
2 United States. The license also shall be revoked if the local
3 licensing authority determines that the person is a
4 member of a criminal street gang, as defined by
5 subdivision (f) of Section 186.22. The license also shall be
6 revoked if the local licensing authority determines that a
7 licensee has, within 10 years prior to the time the
8 applicant applied for the license, participated in a
9 domestic violence diversion program as a result of a
10 complaint charging the applicant with a domestic
11 violence offense.

12 (2) If at any time the Department of Justice
13 determines that a licensee is within a prohibited class
14 described in Section 12021 or 12021.1 of this code or
15 Section 8100 or 8103 of the Welfare and Institutions Code,
16 the department shall immediately notify the local
17 licensing authority of the determination.

18 (3) If the local licensing authority revokes the license,
19 the Department of Justice shall be notified of the
20 revocation pursuant to Section 12053. The licensee shall
21 also be immediately notified of the revocation in writing.

22 (f) (1) A person issued a license pursuant to this
23 section may apply to the licensing authority for an
24 amendment to the license to do one or more of the
25 following:

26 (A) Add or delete authority to carry a particular pistol,
27 revolver, or other firearm capable of being concealed
28 upon the person.

29 (B) Authorize the licensee to carry concealed a pistol,
30 revolver, or other firearm capable of being concealed
31 upon the person.

32 (C) If the population of the county is less than 200,000
33 persons according to the most recent federal decennial
34 census, authorize the licensee to carry loaded and
35 exposed in that county a pistol, revolver, or other firearm
36 capable of being concealed upon the person.

37 (D) Change any restrictions or conditions on the
38 license, including restrictions as to the time, place,
39 manner, and circumstances under which the person may

1 carry a pistol, revolver, or other firearm capable of being
2 concealed upon the person.

3 (2) When the licensee changes his or her address, the
4 license shall be amended to reflect the new address and
5 a new license shall be issued pursuant to paragraph (3).

6 (3) If the licensing authority amends the license, a new
7 license shall be issued to the licensee reflecting the
8 amendments.

9 (4) The licensee shall notify the licensing authority in
10 writing within 10 days of any change in the licensee's
11 place of residence. If the license is one to carry concealed
12 a pistol, revolver, or other firearm capable of being
13 concealed upon the person, then it may not be revoked
14 solely because the licensee changes his or her place of
15 residence to another county if the licensee has not
16 breached any conditions or restrictions set forth in the
17 license or has not fallen into a prohibited class described
18 in Section 12021 or 12021.1 of this code or Section 8100 or
19 8103 of the Welfare and Institutions Code. If the license
20 is one to carry loaded and exposed a pistol, revolver, or
21 other firearm capable of being concealed upon the
22 person, the license shall be revoked immediately if the
23 licensee changes his or her place of residence to another
24 county.

25 (5) An amendment to the license does not extend the
26 original expiration date of the license and the license shall
27 be subject to renewal at the same time as if the license had
28 not been amended.

29 (6) An application to amend a license does not
30 constitute an application for renewal of the license.

31 (g) *A sheriff of a county or the chief or other head of*
32 *a municipal police department of any city or city and*
33 *county who complies in good faith with this section shall*
34 *be immune from liability resulting or arising from any*
35 *action or misconduct with a firearm committed by any*
36 *person to whom a license to carry a pistol, revolver, or*
37 *other firearm capable of being concealed upon the*
38 *person has been issued pursuant to this section.*

39 SEC. 4. Section 12051 of the Penal Code is amended
40 to read:

1 12051. (a) (1) Applications for licenses shall be filed
2 in writing, signed by the applicant, and shall state the
3 name, occupation, residence and business address of the
4 applicant, his or her age, height, weight, color of eyes and
5 hair, and reason for desiring a license to carry the weapon.
6 *If the applicant has participated in a domestic violence*
7 *diversion program as a result of a complaint charging the*
8 *applicant with a domestic violence offense, the*
9 *application also shall state that fact and the dates of the*
10 *participation in the program.* Any license issued upon the
11 application shall set forth the foregoing data and shall, in
12 addition, contain a description of the weapon or weapons
13 authorized to be carried, giving the name of the
14 manufacturer, the serial number, and the caliber. The
15 license issued to the licensee may be laminated.

16 (2) Applications for amendments to licenses shall be
17 filed in writing and signed by the applicant, and shall state
18 what type of amendment is sought pursuant to
19 subdivision (f) of Section 12050 and the reason for
20 desiring the amendment.

21 (3) Applications for amendments to licenses,
22 applications for licenses, amendments to licenses, and
23 licenses shall be uniform throughout the state, upon
24 forms to be prescribed by the Attorney General. The
25 forms shall contain a provision whereby the applicant
26 attests to the truth of statements contained in the
27 application.

28 (b) Any person who files an application required by
29 subdivision (a) knowing that statements contained
30 therein are false is guilty of a misdemeanor.

31 (c) Any person who knowingly makes a false
32 statement on the application regarding any of the
33 following shall be guilty of a felony:

34 (1) The denial or revocation of a license, or the denial
35 of an amendment to a license, issued pursuant to Section
36 12050.

37 (2) A criminal conviction.

38 (3) A finding of not guilty by reason of insanity.

39 (4) The use of a controlled substance.

40 (5) A dishonorable discharge from military service.

1 (6) A commitment to a mental institution.

2 (7) A renunciation of United States citizenship.

3 SEC. 5. Section 12054 of the Penal Code is amended
4 to read:

5 12054. (a) Each applicant for a new license or for the
6 renewal of a license shall pay at the time of filing his or her
7 application a fee determined by the Department of
8 Justice not to exceed the application processing costs of
9 the Department of Justice for the direct costs of
10 furnishing the report required by Section 12052. After the
11 department establishes fees sufficient to reimburse the
12 department for processing costs, fees charged shall
13 increase at a rate not to exceed the legislatively approved
14 annual cost-of-living adjustments for the department's
15 budget. The officer receiving the application and the fee
16 shall transmit the fee, with the fingerprints if required, to
17 the Department of Justice. The licensing authority of any
18 city or county may charge an additional fee, not to exceed
19 ~~three~~ *twelve* dollars ~~(\$3)~~ *and fifty cents (\$12.50)*, for
20 processing the application, and shall transmit the
21 additional fee, if any, to the city or county treasury.

22 (b) In the case of an amended license pursuant to
23 subdivision (f) of Section 12050, the licensing authority of
24 any city or county may charge a fee, not to exceed ~~three~~
25 *twelve* dollars ~~(\$3)~~ *and fifty cents (\$12.50)*, for processing
26 the amended license and shall transmit the fee to the city
27 or county treasury.

28 (c) *Any person who charges or attempts to charge a*
29 *fee in excess of the amount specified in subdivisions (a)*
30 *and (b) for a license to carry a pistol, revolver, or other*
31 *firearm capable of being concealed upon the person is*
32 *guilty of a misdemeanor.*

33 SEC. 6. No reimbursement is required by this act
34 pursuant to Section 6 of Article XIII B of the California
35 Constitution for certain costs that may be incurred by a
36 local agency or school district because in that regard this
37 act creates a new crime or infraction, eliminates a crime
38 or infraction, or changes the penalty for a crime or
39 infraction, within the meaning of Section 17556 of the
40 Government Code, or changes the definition of a crime

1 within the meaning of Section 6 of Article XIII B of the
2 California Constitution.

3 However, notwithstanding Section 17610 of the
4 Government Code, if the Commission on State Mandates
5 determines that this act contains other costs mandated by
6 the state, reimbursement to local agencies and school
7 districts for those costs shall be made pursuant to Part 7
8 (commencing with Section 17500) of Division 4 of Title
9 2 of the Government Code. If the statewide cost of the
10 claim for reimbursement does not exceed one million
11 dollars (\$1,000,000), reimbursement shall be made from
12 the State Mandates Claims Fund.

13 Notwithstanding Section 17580 of the Government
14 Code, unless otherwise specified, the provisions of this act
15 shall become operative on the same date that the act
16 takes effect pursuant to the California Constitution.

